

# Variance Application Review



Handout #75 Revised 5/20/04

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## What is the purpose of a variance?

The purpose of a variance is to provide relief to property owners where application of the Clark County Code may cause a hardship, due to unusual circumstances of the land.

## What are the different types of reviews for variances?

There are three different review processes based upon the extent of the variance being requested. The Planning Director may grant a variance for a **Type I** review (less than 10% of the numerical standard) or **Type II** review (10 to 25% of the numerical standard) for the following numerical standards including, but not limited to:

- Setback
- Buffers
- Building Height
- Landscaping
- Lot Coverage
- Lot Dimensions
- Parking standards

But **not including** lot area, density or qualifying standards for program such as infill or density transfer.

Variance requests for a **Type III** review (more than 25% of the numerical standard) require a public hearing and are decided by the Hearing Examiner.

Variances from the County's Transportation Standards are reviewed under the Road Modification review process (see Handout #73 Road Modification).

## What are the approval criteria for granting a variance?

The review authority may approve a variance when all of the following conditions and facts exist:

### For Type I and II Reviews:

1. Granting the variance(s) will not:
  - Substantially detract from the livability or appearance of a residential area or from the desired character of a nonresidential area; or,
  - The variance(s) will substantially enhance the livability or appearance of a residential area or the desired character of a nonresidential area, such as by preserving or protecting significant natural, scenic, historic, cultural, open space or energy resources;
2. If variances to more than one (1) regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated;
3. Adverse impacts resulting from the variance(s) are mitigated to the extent practical; and,
4. The variance(s) does not substantially impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians or alternative access is provided.

**For Type III Reviews:**

1. Unusual circumstances apply to the property and/or intended use that do not apply to other property in the same vicinity or district;
2. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity or district;
3. The variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located; and,
4. The variance will not adversely affect the realization of the comprehensive plan. (Sec. 40.550.020(B)).

**What if I need a Type II (administrative) variance, but am submitting a Type III development application?**

If an application for an administrative variance is associated with another development application, then the application for the administrative variance shall be combined with the associated application(s) for processing and shall be subject to the same procedure type as the highest number procedure type application(s) with which it is combined.

**Is a pre-application conference required?**

A pre-application conference is not required for a Type I or II review. A pre-application conference is only required before submitting a Type III review variance application. The requirement for a conference may be waived if the Planning Director determines that the proposal is relatively simple. A waiver requires the applicant to submit a completed "Pre-Application Review Waiver Request Form" and fee in the amount of **\$139**.

**What is the application process and when will I receive a decision?**

**Type I:**

The applicant must submit a completed Application Form and fees, together with 3 copies of the required submittal items (see attached Type I and II Variance Submittal Requirements) to the Customer Service Center. A written decision on the variance request will be issued within 21 calendar days from determination that the application is complete.

**Type II:**

The applicant must submit a completed Application Form and fees, together with 6 copies of the required submittal items (see attached Type I and II Variance Submittal Requirements) to the Customer Service Center. A written decision on the variance request will be issued within 78 calendar days from determination that the application is complete.

**Type III:**

A pre-application conference is required before submitting a Type III review variance request. The next step is to submit a completed Application Form and fees, together with 6 copies of the required submittal items (see attached Type III Variance Submittal Requirements) to the Customer Service Center. A public hearing will be held within 78 calendar days from determination that the application is complete.

Within 14 calendar days after the hearing is closed, the Hearing Examiner will issue a written decision regarding the application. Within 7 calendar days of its issuance, the decision will be mailed to the applicant, other parties of record, and the neighborhood associations.

### **What if I didn't submit all of the required information?**

The County conducts two application checks to ensure that applications are complete before staff begins their development review process. Prior to accepting your application, the Customer Service staff will conduct a "**Counter Complete**" review of your submittal package. This initial review ensures that **all items with a bold underlined space** listed within the subdivision submittal requirements have been submitted before accepting your application (see attached submittal list). These include:

1. Application Form
2. Application Fee
3. Pre-Application Conference Report (for Type III reviews only)
4. Developer's GIS Packet Information
5. Narrative
6. Submittal Copies

Once your application is accepted, the original submittal package is routed to our review staff. Staff conducts a second completeness check, known as the "**Fully Complete**" review. This more detailed review ensures that **all items with a box to the left** listed under the numbered headings of the attached "Submittal Requirements" have been submitted. As an example, does the "Narrative" address all the approval criteria?

If required items are missing from your original submittal, you will receive a letter of "**Not** Fully Complete," with a list of the missing items. If you have not submitted the requested information within 30 days of this written request, staff will return your application and refund the application fee, less the processing costs incurred to date.

### **What kind of public notice is provided?**

For a **Type I** review, there is no public notice.

**Type II** reviews require public notice as follows:

- Published in the newspaper,
- Mailed to property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site;
- Mailed to the Neighborhood Association; and,
- Mailed to the applicant.

For **Type III** reviews, at least 15 calendar days prior to the public hearing date, a notice including the date, time and place of the hearing and describing the variance request will be:

- Posted at the site,
- Published in the newspaper,
- Mailed to property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site;
- Mailed to the Neighborhood Association; and,
- Mailed to the applicant.

The notice will invite interested parties to present testimony at the hearing either orally or in writing.

### **What happens at the public hearing for a Type III review variance request?**

At the public hearing, the applicant or their representative will be asked to present an overview of their variance request to the audience, including those viewing the hearing over CVTV cable access television.

Once the overview is completed, the applicant may next raise issues regarding the staff report and recommendations. This is also the time for the applicant to address issues that may be brought up during the public testimony portion of the hearing, and/or issues the Hearings Examiner may raise.

Once the applicant has completed their presentation, county staff will present an overview of their analysis, findings and recommendation as to whether the application meets or exceeds the approval criteria.

Following the staff presentation, the hearing will be open to the general public for their testimony. Once all the public testimony has been received, the applicant will have the opportunity to provide rebuttal testimony.

The Hearing Examiner will next close the public hearing.

### **What is a Staff Report in a Type III review?**

Staff's role is to prepare a Staff Report that summarizes their review of the proposal against the requirements of the Clark County Code (CCC). In this report, staff will make a recommendation to approve, approve with conditions or deny the application. This written report will be mailed to the applicant at least 14 calendar days prior to the scheduled public hearing on this matter.

### **Can the decision be appealed?**

The Planning Director's decision for a Type II or II review may be appealed to the County Hearings Examiner by the applicant or any person or group. An appellant must submit an appeal application and **\$1070** fee within 14 calendar days after the written notice of the decision is mailed.

The Hearing Examiner's decision may, be appealed to the Board of County Commissioners by the applicant or a party of record (i.e., someone who presented written or verbal testimony at the hearing, or signed the hearing sign-in sheet on the specific application). An appellant must submit an appeal application and **\$279** fee within 14 calendar days after the written notice of the decision is mailed.

**Note:** This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code 40.550.020 Variances.

## DEVELOPMENT REVIEW TYPE I, II & III VARIANCE APPLICATION SUBMITTAL REQUIREMENTS

The following checklist identifies information to be included with the Application. All items with a bold underlined space (i.e.,     ) must be submitted before the application will be considered “**Counter Complete**.” All items with a box to the left must be submitted before the application will be determined “**Fully Complete**.” All bulleted items must be submitted, as applicable, but are not a “Fully Complete” requirement.

1.      **APPLICATION FORM** - The application form shall be completed and original signed in ink by the applicant.

2.      **APPLICATION FEE** - The applicable fee for the Conditional Use shall accompany the application. The check is to be made payable to "Clark County Community Development".

3.      **DEVELOPER’S GIS PACKET INFORMATION**

A copy of the “Developer’s GIS Packet” shall be submitted with the Conditional Use application submittal. The “Developer’s GIS Packet” is available at the Customer Service Center for \$30.00, and contains the following information:

- General Location Map
- Property Information Fact Sheet
- Arterial Roadway, C-Tran Bus Routes, Parks and Trails Map
- Elevation Contours Map
- Photography Map
- Photography Map with Contours
- Zoning Map
- Comprehensive Plan Map
- Water, Sewer and Storm Systems Map
- Soil Type Map
- Environmental Constraints Map
- Quarter Section Map

4.      **Site Plan**

A site plan, drawn to scale of 1"=200' on a sheet no larger than 24" x 36." The site plan shall include the following:

- ☐ Applicant's name;
- ☐ Owner's Name;
- ☐ North arrow, scale and date;
- ☐ Property lines and dimensions;
- ☐ Location of existing buildings;
- ☐ Locations and width of easements for access, drainage and utilities, etc.; and,
- ☐ Location of proposed buildings, streets and storm drainage systems.

## 5.      **NARRATIVE**

A written narrative shall be submitted that justifies or explains how the variance request meets all of the following approval criteria:

### For Type I and II Variances:

- ☐ Granting the variance(s) will not substantially detract from the livability or appearance of a residential area or from the desired character of a nonresidential area, or the variance(s) will substantially enhance the livability or appearance of a residential area or the desired character of a nonresidential area, such as by preserving or protecting significant natural, scenic, historic, cultural, open space or energy resources;
- ☐ If variances to more than one (1) regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated;
- ☐ Adverse impacts resulting from the variance(s) are mitigated to the extent practical; and,
- ☐ The variance(s) does not substantially impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians, or alternative access is provided.

### For Type III Variances:

- ☐ Unusual circumstances of conditions apply to the property and/or to the intended use that do not apply generally to other property in the same vicinity or district;
- ☐ Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district;
- ☐ The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located;
- ☐ That the granting of such variance will not adversely affect the realization of the comprehensive plan. (Sec. 40.550.020(B)).

## 6.      **SUBMITTAL COPIES:**

### Type I review

- ☐ One (1) bound copy (one with original signature), bound by a jumbo clip or rubber band, of the full application package

### Type II or III review

- ☐ Six (6) individually bound copies (one with original signature), bound by a jumbo clip or rubber band, of the full application package

### **Staff Notes:**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_

8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

**This application was determined to be Counter Complete on: \_\_\_\_/\_\_\_\_/\_\_\_\_**

**Community Development Specialist: \_\_\_\_\_**

<b>VARIANCE REVIEW FEE SCHEDULE</b>
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The following fees are required for submittal of a variance application. These fees are to be paid at the time of application.

Type I	\$808
Type I when considered with a development application	\$790
Type II	\$1,394
Type II when considered with a development application	\$1,097
Type III Variance	\$7,858*
Type III when considered with a development application:	\$3,924*

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\* If variance from stormwater and/or transportation standards, add \$1,107.

**Public Service Center  
Department of Community Development  
1300 Franklin Street  
P.O. Box 9810  
Vancouver, WA 98666-9810  
Phone: (360) 397-2375; Fax: (360) 397-2011  
Web Page at: <http://www.clark.wa.gov>**



# DEVELOPMENT REVIEW APPLICATION FORM

(Form DS1000-Revised 12/4/03)



<b>PROJECT NAME:</b>		
<b>TYPE(S) OF APPLICATION (See Reverse Side):</b>		
<b>DESCRIPTION OF PROPOSAL:</b>		
<b>APPLICANT NAME:</b>	Address:	
E-mail Address:	Phone and Fax:	
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet):	Address:	
E-mail Address:	Phone and Fax:	
<b>CONTACT PERSON NAME</b> (list if not same as APPLICANT):	Address:	
E-mail Address:	Phone and Fax:	
<b>PROJECT SITE INFORMATION:</b> Site Address:		Comp Plan Designation:
Cross Street:	Zoning:	Serial #'s of Parcels:
Overlay Zones:	Legal:	Acreage of Original Parcels:
Township:	Range:	¼ of Section:

## AUTHORIZATION

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. This application gives consent to the County to enter the properties listed above.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

<b>Assigned at Customer Service Center</b>	<b>CASE NUMBER:</b>	
	<b>WORK ORDER NUMBER:</b>	

## **APPLICATION TYPES**

If you have any questions regarding the type of application being requested, our Customer Service Center will be happy to assist you.

- ☐ Annual Review
- ☐ Appeal
- ☐ Boundary Line Adjustment and Lot Reconfiguration
- ☐ Conditional Use

### **Environmental/Critical Areas:**

- ☐ Archaeological
- ☐ Critical Aquifer Recharge Area (CARA)
- ☐ Columbia River Gorge
- ☐ Forestry + (Moratorium Waiver, Moratorium Removal, Class I, Class IVG or COHP)
- ☐ Floodplain
- ☐ Geological
- ☐ Habitat
- ☐ Historic
- ☐ SEPA
- ☐ Shoreline
- ☐ Wetland

### **Land Division:**

- ☐ Binding Site Plan
- ☐ Final Plat
- ☐ Plat Alteration
- ☐ Short Plat (\_\_\_ Infill)
- ☐ Subdivision (\_\_\_ Infill)

### **Miscellaneous:**

- ☐ Addressing
- ☐ Accessory Dwelling
- ☐ Covenant Release
- ☐ Garden Shed Setback Waiver
- ☐ Home Occupation
- ☐ Legal Lot Determination & Innocent Purchasers Determination
- ☐ Non-Conforming Use Determination
- ☐ Reconstruct Letter
- ☐ Sewer Waiver
- ☐ Shooting Range
- ☐ Sign

### **Planning Director Review:**

- ☐ Post Decision
- ☐ Pre-Application Conference
- ☐ Pre-Application Waiver
- ☐ Public Interest Exception
- ☐ Similar Use
- ☐ Temporary Use
- ☐ Other

- ☐ Planned Unit Develop/Master Plan
- ☐ Road Modification
- ☐ Site Plan
- ☐ Variance
- ☐ Zone Change